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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE CEMETERY AND FUNERAL BUREAU**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Accusation Against:

Case No. A1 2018 61

14 **WOODLAWN MEMORIAL PARK,**
15 **RUBEN SUAREZ**
16 **1715 West Greenleaf Blvd**
Compton, CA 90220

ACCUSATION

17 **Certificate of Authority License No. COA**
645,

18 **and**

19 **RUBEN SUAREZ**
20 **17157 Point Arguello Place**
Cerritos, CA 90703

21 **Cemetery Manager License No. CEM 224**

22 Respondents.
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1 Complainant alleges:

2 **PARTIES**

3 1. Sandra Patterson ("Complainant") brings this Accusation solely in her official
4 capacity as the Acting Bureau Chief of the Cemetery and Funeral Bureau ("Bureau"), Department
5 of Consumer Affairs.

6 2. On or about September 5, 2012, the Bureau issued Certificate of Authority License
7 No. COA 645 to Woodlawn Memorial Park ("Respondent Woodlawn"). The Certificate of
8 Authority License was in full force and effect at all times relevant to the charges brought herein
9 and expired on September 30, 2017.

10 3. On or about October 22, 2004, the Bureau issued Cemetery Manager License No.
11 CEM 224 to Ruben Suarez ("Respondent Suarez"). The Cemetery Manager License was in full
12 force and effect at all times relevant to the charges brought herein and expired on October 31,
13 2017.

14 **JURISDICTION**

15 4. This Accusation is brought before the Director of the Department of Consumer
16 Affairs ("Director") for the Bureau, under the authority of the following laws. All section
17 references are to the Business and Professions Code ("Code") unless otherwise indicated.

18 5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender,
19 or cancellation of a license shall not deprive the Board, Registrar, or Director of jurisdiction to
20 proceed with a disciplinary action during the period within which the license may be renewed,
21 restored, reissued or reinstated.

22 6. Code section 7686 states that:

23 The bureau may suspend or revoke licenses, after proper notice
24 and hearing to the licensee, if the licensee has been found guilty by
25 the bureau of any of the acts or omissions constituting grounds for
26 disciplinary action. The proceedings under this article shall be
conducted in accordance with Chapter 5 of Part 1 of Division 3 of
Title 2 of the Government Code, and the bureau shall have all the
powers granted therein.

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STATUTORY PROVISIONS

7. Code section 7653.6 states, in pertinent part, that:

A cemetery licensed under this chapter shall at all times employ a licensed cemetery manager to manage, supervise, and direct its operations. Notwithstanding any other provision of this chapter, licensed cemeteries within close geographical proximity of each other may request the bureau to allow a licensed cemetery manager to manage, supervise, and direct the business or profession of more than one facility.

(a) Every cemetery shall designate a licensed cemetery manager to manage the cemetery, and shall report the designation to the bureau within 10 days of the effective date. Any change in the designated manager shall be reported to the bureau within 10 days.

(b) The designated cemetery manager shall be responsible for exercising direct supervision and control over the operations, employees, and agents of the cemetery as is necessary to ensure full compliance with the applicable provisions of this code, the Health and Safety Code, and any regulations adopted thereto. Failure of the designated cemetery manager or the licensed cemetery to exercise that supervision or control shall constitute a ground for disciplinary action. . . .

8. Code section 7711.1 states, in pertinent part, that:

Unprofessional conduct by any licensee or registrant or by any agent or employee of a licensee or registrant constitutes grounds for disciplinary action. Unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of this chapter and any regulation adopted thereunder, or of any federal or state law or regulation governing the disposition of human remains, operation of cemeteries or crematories, the sale of cemetery property, or the sale of crematory services or commodities. . . .

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 2333, states, in pertinent part, that:

(a) Every endowment care cemetery shall have cemetery maintenance standards to ensure the property is kept in a condition so as to prevent the cemetery's offensive deterioration. The cemetery maintenance standards shall be in accordance with either subdivision (b) or subdivision (c) of this Section.

(b) Each endowment care cemetery shall perform, at a minimum, the following maintenance on its cemetery property:

(1) Trim or mow grass and prune shrubs and trees in and around the cemetery. Grass shall be trimmed or mowed to a level where flat markers of individual graves can be seen.

(2) Suppress or remove weeds on the developed cemetery property.

(3) Provide a sufficient supply of water to keep cemetery grass and plants as green as seasonally possible in accordance with natural terrain, availability of water, and local or county ordinances regarding water use.

(4) Repair or restore improvements, structures and fences on the property which are owned by the cemetery.

(5) Keep cemetery roads seasonally accessible and repair surfacing which presents a hazard.

(6) Keep all occupied crypts and niches properly sealed or closed.

(7) Refill or reset settled graves and markers annually, or within 120 days of the cemetery office becoming aware of the issue.

(8) Repair any grave marker, monument, or burial vault that is damaged by the negligence of the cemetery or its employees or contractors.

(9) Supply and empty trash receptacles when filled, and keep public areas of the cemetery grounds and water features clear of trash and debris.

(10) Provide clear delineation of undeveloped cemetery property with the use of signage.

(11) Control vermin and insect problems. . . .

10. California Code of Regulations, title 16, section 2385, subdivision (b), provides, in pertinent part, that:

(b) When a citation containing an assessment of an administrative fine, an order of abatement, or both an administrative fine and an order of abatement is not contested or if the citation is appealed and the person or entity cited does not prevail, failure to pay the fine or abate the violation charged within thirty (30) days of the issuance or affirmation shall constitute a violation and may result in disciplinary action being taken by the bureau chief, or his or her designee. When a citation is not contested and a fine is not paid, the full amount of the fine shall be added to the fee for renewal of the license and the license shall not be renewed without payment of the renewal fee and fine.

11. California Code of Regulations, title 16, section 2388, subdivision (a),¹ provides, in pertinent part, that:

(a) Any cemetery authority that does not file the annual report required by section 9650 of the Business and Professions Code within the time prescribed by said Code shall be assessed a fine by the bureau chief, or his or her designee, in the amount of four hundred dollars (\$ 400) per month for a maximum of five (5) months. Failure to pay the fine within fifteen (15) days after receipt of written notification of the assessment or, where a timely request for waiver or reduction of the fine has been filed with the bureau chief, within fifteen (15) days after receipt of written notification of the bureau chief's decision in the matter, shall be cause for disciplinary action.

COST RECOVERY

¹ Code section 9650 was repealed and its contents were recodified under Code section 7612.6 when the Cemetery Act and the Funeral Directors and Embalmers Law were merged into the Cemetery and Funeral Act, effective January 1, 2016, via Assembly Bill 180, filed October 1, 2015.

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct, Failure to Pay Citations)

Against Respondents Woodlawn and Suarez

13. Respondents are subject to disciplinary action under Code section 7711.1, subsection (a), in conjunction with California Code of Regulations, title 16, section 2385, subdivision (b), on the grounds of unprofessional conduct. The circumstances are as follows:

14. From approximately July 2013 through April 2018, Respondents were issued multiple citations, including, but not limited to, Citation Nos. IC 2014 259 (issued to Respondent Woodlawn on November 24, 2014), IC 2015 244 (issued to Respondent Woodlawn on November 24, 2015), IC 2016 66 (issued to Respondent Woodlawn on July 19, 2016), IC 2016 206 (issued to Respondent Suarez on July 19, 2016), IC 2016 324 (issued to Respondent Woodlawn on November 30, 2016), IC 2016 228 (issued to Respondent Woodlawn on December 28, 2016), IC 2016 349 (issued to Respondent Suarez on December 28, 2016), IC 2017 49 (issued to Respondent Woodlawn on May 16, 2017), IC 2017 118 (issued to Respondent Suarez on May 16, 2017), IC 2017 270 (issued to Respondent Woodlawn on January 9, 2018), IC 2017 366 (issued to Respondent Suarez on January 10, 2018). However, Respondents failed to pay Citation Nos. IC 2016 324, IC 2017 270, and IC 2017 366.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct, Failure to Come into Legal Compliance)**

3 **Against Respondents Woodlawn and Suarez**

4 15. Respondents are subject to disciplinary action under Code section 7711.1 on the
5 grounds of unprofessional conduct in that, from approximately July 2013 to April 2018,
6 Respondents ignored repeated warnings and requests from the Bureau to bring the cemetery
7 grounds into good order, and failed to properly maintain the grounds in compliance with
8 applicable laws and regulations. Complainant refers to and hereby expressly incorporates the
9 allegations within paragraph 14 as though fully set forth herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct, Cemetery Maintenance Standards)**

12 **Against Respondents Woodlawn and Suarez**

13 16. Respondents are subject to disciplinary action under Code section 7711.1, subsection
14 (a), in conjunction with California Code of Regulations, title 16, section 2333, subsection (a) and
15 (b), on the grounds that Respondents failed to have appropriate maintenance standards to ensure
16 that the property is kept in a condition so as to prevent the cemetery's offensive deterioration and
17 failed to perform the minimum maintenance on its property. The circumstances are as follows:

18 17. On or about April 11, 2018, an investigator from the Bureau visited Woodlawn
19 Memorial Park and observed that the grounds were in a state of severe neglect. For example, the
20 grass was brown, most of the cemetery grounds were covered in weeds, many of the cemetery
21 markers were unreadable due to vegetative overgrowth and dirt, and water spigots on the grounds
22 were inoperable when tested. Also, when the investigator confronted Respondent Suarez about
23 the poor condition of the cemetery grounds, Respondent Suarez admitted that the cemetery did
24 not have running water as it had been turned off.

25 18. The Endowment Care Trust Fund that Respondents maintain for Woodlawn
26 Memorial Park is insufficient to cover the current and future maintenance costs on a yearly basis
27 required by California laws and regulations.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Failure to Employ a Licensed Cemetery Manager)**

3 **Against Respondent Woodlawn**

4 19. Respondent Woodlawn is subject to disciplinary action under Code section 7653.6 for
5 failing to employ a licensed cemetery manager to manage, supervise, and direct its operations
6 and, instead, employing Respondent Suarez as the cemetery manager, whose license has been
7 delinquent since approximately October 31, 2017.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Exercise Direct Supervision and Control)**

10 **Against Respondent Suarez**

11 20. Respondent Suarez is subject to disciplinary action under Code section 7653.6,
12 subdivision (b), for failing to exercise direct supervision and control over the operations,
13 employees, and agents of the cemetery as is necessary to ensure full compliance with California
14 law and regulations. Complainant refers to and hereby expressly incorporates the allegations
15 within paragraphs 14, 15, 17, and 18, as though fully set forth herein.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct, Failure to File Annual Report)**

18 **Against Respondent Woodlawn**

19 21. Respondent Woodlawn is subject to disciplinary action under Code section 7711.1,
20 subsection (a), in conjunction with California Code of Regulations, title 16, section 2388,
21 subdivision (a), for failing to pay a fine in the amount of \$2,000 that was issued in Citation
22 Number IC 2016 324 on or about November 30, 2016, which resulted from its failure to file an
23 annual report for the calendar year of 2015. Complainant refers to and hereby expressly
24 incorporates the allegations within paragraph 14 as though fully set forth herein.

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DISCIPLINE CONSIDERATIONS

22. To determine the degree of discipline, if any, to be imposed on Respondents Woodlawn and Suarez, Complainant alleges that:

a. On or about November 24, 2014, the Cemetery and Funeral Bureau issued Citation Number IC 2014 259 to Respondent Woodlawn, and ordered Respondent Woodlawn to file a report as provided in Code section 9650 and pay a fine in the amount of \$2,000 as provided in California Code of Regulations, title 16, section 2388. That Citation is now final and is incorporated by reference as if fully set forth.

b. On or about November 24, 2015, the Cemetery and Funeral Bureau issued Citation Number IC 2015 244 to Respondent Woodlawn, and ordered Respondent Woodlawn to file a report as provided in Code section 9650 and pay a fine in the amount of \$2,000 as provided in California Code of Regulations, title 16, section 2388. That Citation is now final and is incorporated by reference as if fully set forth.

c. On or about July 19, 2016, the Cemetery and Funeral Bureau issued Citation Number IC 2016 66 to Respondent Woodlawn under California Code of Regulations, title 16, section 2333, and ordered Respondent Woodlawn to immediately perform minimum maintenance of its property. That Citation is now final and is incorporated by reference as if fully set forth.

d. On or about July 19, 2016, the Cemetery and Funeral Bureau issued Citation Number IC 2016 206 to Respondent Suarez under Code section 7653.6, and ordered Respondent Suarez to exercise appropriate supervision and control as necessary in order to ensure compliance with California Code of Regulations, title 16, section 2333. That Citation is now final and is incorporated by reference as if fully set forth.

e. On or about November 30, 2016, the Cemetery and Funeral Bureau issued Citation Number IC 2016 324 to Respondent Woodlawn, and ordered Respondent Woodlawn to file a report as provided in Code section 7612.10 and pay a fine in the amount of \$2,000 as provided in California Code of Regulations, title 16, section 2388. That Citation is now final and is incorporated by reference as if fully set forth. The fine has not been paid.

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1 f. On or about December 28, 2016, the Cemetery and Funeral Bureau issued
2 Citation Number IC 2016 228 to Respondent Woodlawn under Code section 7711.1, and ordered
3 Respondent Woodlawn to stop performing dis-interments for relocation and leaving residual
4 human remains on the surface of previous locations. That Citation is now final and is
5 incorporated by reference as if fully set forth.

6 g. On or about December 28, 2016, the Cemetery and Funeral Bureau issued
7 Citation Number IC 2016 349 to Respondent Suarez under Code section 7653.6, subdivision (b),
8 and ordered Respondent Suarez to stop performing dis-interments for relocation and leaving
9 residual human remains on the surface of previous locations. That Citation is now final and is
10 incorporated by reference as if fully set forth.

11 h. On or about May 16, 2017, the Cemetery and Funeral Bureau issued Citation
12 Number IC 2017 49 to Respondent Woodlawn under California Code of Regulations, title 16,
13 section 2333, and ordered Respondent Woodlawn to immediately perform minimum maintenance
14 of its property and pay a fine in the amount of \$1,000. That Citation is now final and is
15 incorporated by reference as if fully set forth.

16 h. On or about May 16, 2017, the Cemetery and Funeral Bureau issued Citation
17 Number IC 2017 118 to Respondent Suarez under Code section 7653.6, subdivision (b), and
18 ordered Respondent Suarez to exercise appropriate supervision and control as necessary in order
19 to ensure compliance with California Code of Regulations, title 16, section 2333. The Bureau
20 also ordered Respondent Suarez to pay a fine in the amount of \$250. That Citation is now final
21 and is incorporated by reference as if fully set forth.

22 i. On or about January 9, 2018, the Cemetery and Funeral Bureau issued Citation
23 Number IC 2017 270 to Respondent Woodlawn under Code section 7711.1 and California Code
24 of Regulations, title 16, section 2333, and ordered Respondent Woodlawn to offer gravesite
25 location services and perform minimum maintenance on the cemetery grounds as required. The
26 Bureau also ordered Respondent Suarez to pay a fine in the amount of \$1,000. That Citation is
27 now final and is incorporated by reference as if fully set forth. The fine has not been paid.

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i. On or about January 10, 2018, the Cemetery and Funeral Bureau issued Citation Number IC 2017 366 to Respondent Suarez under Code section 7653.6, and ordered Respondent Suarez to offer gravesite location services and perform minimum maintenance on the cemetery grounds as required. The Bureau also ordered Respondent Suarez to pay a fine in the amount of \$500. That Citation is now final and is incorporated by reference as if fully set forth. The fine has not been paid.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking Certificate of Authority License No. COA 645, issued to Woodlawn Memorial Park, Ruben Suarez;
2. Revoking Cemetery Manager License No. CEM 224, issued to Ruben Suarez;
3. Ordering Woodlawn Memorial Park and Ruben Suarez to pay the Cemetery and Funeral Bureau the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 1-29-19


SANDRA PATTERSON
Acting Bureau Chief
Cemetery and Funeral Bureau
Department of Consumer Affairs
State of California
Complainant

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